

In the Matter of)
)
Review of the Emergency Alerting System) EB Docket No. 04-296
)

**COMMENTS OF
PRIMARY ENTRY POINT ADVISORY COMMITTEE**

Primary Entry Point Advisory Committee (“PEPAC”), by its attorneys, hereby submits these Comments in response to the Commission’s Second Further Notice of Proposed Rulemaking (“SNPRM”) in the above-captioned proceeding. PEPAC is a non-profit corporation formed for the purpose of organizing a group of radio broadcast stations throughout the United States to provide a means of primary access by the President to address the nation in times of national emergency. PEPAC is comprised of representatives from each of the Primary Entry Point stations (“PEP Stations”). PEPAC advises FEMA with respect to the adoption of policies and procedures relating to the Primary Entry Point Program and the EAS, and provides certain management, planning, and technical consulting functions in support of the Primary Entry Point Program. PEPAC respectfully submits the following Comments for consideration by the Commission in this proceeding.

PEPAC supports the Commission's proposal to implement annual EAS testing at the national level as a means to maintain the operational readiness and reliability of the EAS relay system and to ensure that facility operators are well versed with EAS operational requirements

and protocols. However, before routine national EAS testing can be implemented, the nationwide EAS relay system must be comprehensively tested. To date, EAS testing efforts have been limited to state and local system components, and a nationwide test of the EAS has never been conducted. As a consequence, significant system vulnerabilities exist at the national level. Given the scope of the potential problems that the first national EAS test may reveal, PEPAC proposes that FEMA and the Commission undertake a more comprehensive initial assessment of the nationwide EAS relay than currently proposed.

The EAS is an immensely complicated interconnected communications network with multiple potential sources of system failure, including Emergency Action Notification (“EAN”) origination, Encoder/Decoder configuration, Encoder/Decoder system integration, PEP Station EAN message distribution and EAS monitoring assignments. In light of the recent EAS testing initiative undertaken in Alaska, PEPAC anticipates that the first nationwide EAS test may reveal a variety of both expected and unexpected system failures. While many of these anticipated failures likely will be easily remedied, more serious issues, such as system design flaws, software issues and component integration errors, may take longer to isolate, diagnose and resolve. PEPAC therefore recommends that FEMA and the Commission conduct at least two initial nationwide tests during the first calendar year of the testing regime. The purpose of the first test would be to document existing system failures and vulnerabilities. Once the results of that test have been analyzed and the problems diagnosed, the second test would be used to confirm that improvements implemented have been successful and to facilitate further design improvements to the extent that problems persist. Routine annual national tests would be

implemented once a reasonably high degree of nationwide EAS relay system reliability had been achieved.

The Commission correctly notes in the SNPRM that while many Encoder/Decoder devices are programmed to process EAN messages regardless of whether a particular Federal Information Processing Standards (“FIPS”) location code is specified, at least one Encoder/Decoder device is programmed to require a specific FIPS location code match. If an EAN message does not include the appropriate FIPS location code, such devices as configured will not pass through or retransmit the EAN message, effectively breaking the EAS distribution network at that location. Since programming inconsistencies among Encoder/Decoder devices are likely to disrupt EAS relay system functionality, PEPAC recommends that FEMA and the Commission coordinate with all Encoder/Decoder device manufacturers in advance of the first national test to conduct a closed circuit compatibility test to determine whether any programming adjustments are needed.

All nationwide EAS tests should commence with a “live” EAN code, followed by an audible announcement that *“This is a nationwide test of the Emergency Alert System,”* and should terminate with an appropriate End of Message (“EOM”). A “live” EAN code should be employed during the tests because it is an existing EAS protocol that is intended to propagate throughout the EAS chain, and its use would test the system for operational readiness most efficiently under realistic circumstances. PEPAC cautions against use of the National Periodic Test (“NPT”) or any other specific test code that has not been previously used. The use of any code other than an EAN would require each EAS facility operator to manually alter their Encoder/Decoder programming configuration to recognize and accept the new code. Not only

would such an exercise be burdensome and unnecessary, it would significantly increase the risk of errors being introduced into the national text regime that would be contrary to the objective of improving the reliability of the EAS.

PEPAC notes that the SNPRM does not address the responsibilities of Non-Participating National (“NN”) stations during the proposed nationwide tests. Section 11.18 of the Commission’s Rules specifies that upon activation of the national level EAS, an NN station is required to broadcast the EAS code, Attention Signal and sign-off announcement, and then discontinue operations until receipt of the Emergency Action Termination code. In order to avoid unnecessary confusion, the Commission should clarify whether NN stations are required to follow these procedures during national EAS tests.

The Commission has proposed that EAS Participants record and submit to the Commission within 30 days following the national test date certain test-related diagnostic information for each alert received from each message source monitored at the time of the national test. PEPAC believes that 30 days is a reasonable amount of time within which to report the test-related information. However, PEPAC suggests that the Commission require the submission of such information only after the first two initial nationwide tests. The submission of such data once routine annual testing has commenced would be unnecessary since EAS Participants would be required to record those events in the EAS log as the Required Monthly Test for the month in which the test occurred.

PEPAC agrees that disclosure of general information relating to the results of nationwide EAS tests would benefit the Commission, its Federal partners, and state and local authorities. However, the release of detailed test results for individual EAS Participants would serve no

useful purpose. Furthermore, the Commission should make clear that the results of any nationwide EAS tests would not be used as the basis for an enforcement action against any EAS Participant for potential violations of the EAS requirements. The Commission correctly waived such enforcement actions in connection with the Alaska EAS test, and should do so for all nationwide tests as well.¹

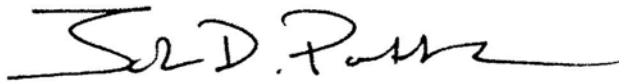
The Commission currently requires EAS Participants to be capable of accepting Common Alerting Protocol (“CAP”) formatted EAS messages no later than 180 days after FEMA publicly adopts a CAP standard. PEPAC submits that the 180 deadline is inadequate and urges the Commission to provide EAS Participants at least one year after the adoption of the CPA standard to achieve that capability. There are only a limited number of manufacturers that will have to supply EAS Participants with new Encoder/Decoder devices. Such manufacturers cannot initiate mass production of the new devices until their prototypes have been modified to comply with the new CAP standard and parts have been procured. Requiring manufacturers to accelerate prototype modifications and commence mass production on an expedited basis in order to meet the Commission’s 180 day deadline increases the risk that otherwise avoidable design flaws or programming errors could be introduced into the final product. The fact that the vast majority of EAS Participants will be required to retain the services of a third-party contractor to both install and test the new equipment will result in further implementation delays. In summary, the process of Encoder/Decoder prototype modifications, parts procurement, mass production,

¹ See Letter dated December 16, 2009 from Thomas J. Beers, Chief, Policy Division, Public Safety and Homeland Security Bureau, to Darlene Simono, Executive Director, Alaska Broadcasters Association.

equipment delivery, equipment installation and testing cannot reasonably be completed within such a short time frame.

Respectfully submitted,

PRIMARY ENTRY POINT ADVISORY COMMITTEE

By: 

Steven A. Lerman

John D. Poutasse

Lerman Senter PLLC

2000 K Street, NW

Suite 600

Washington, DC 20006-1809

202-429-8970

March 15, 2010

Its Attorneys